

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.21316 of 2012

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Gyanti Devi Wife Of Arjun Kumar Resident Of Village Larsa Tola, Rangu Bigha,
P.S. Paras Bigha, District Jehanabad

.... Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Social Welfare Department, Govt. of Bihar, Patna
3. The Director, Integrated Child Development Scheme, Social Welfare Department, Govt. of Bihar, Patna
4. The District Magistrate, Jehanabad
5. The Deputy Development Commissioner, Jehanabad
6. The District Programme Officer, Jehanabad
7. The Child Development Project Officer, Jehanabad (Rural)
8. Sushma Kumari, wife of Sri Babloo Choudhary, Via. Chaklasha, P.S. Paras Bigha, District Jehanabad.

.... Respondents

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Appearance :

For the Petitioner : Mr. Ramakant Sharma, Sr. Advocate
Mr. Rajesh Kumar, Advocate
For the State : Mr. Raj Kishore Roy, GP18
For the Respondent No. 8: Mr. Sudhir Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-11-2017

The present writ petition has been filed for quashing the order dated 21.09.2012 passed by the respondent District Magistrate in Case No. 12 of 2012 whereby and whereunder order dated 05.03.2012 passed by the respondent District Programme Officer in Case No. 10 of 2012 has been affirmed, whereby the respondent District Programme Officer affirmed the earlier order of termination of the petitioner from the post of Anganwari Sevika vide Memo No. 1098 dated 29.10.2011.

2. Mr. Ramakant Sharma, learned Senior Counsel appearing on



behalf of the petitioner submits that the petitioner was absent from the Anganwari Centre for only one day owing to abdominal pain and the punishment of removal meted out to her is arbitrary and disproportionately harsh. Reliance is placed on the Division Bench order of this Court dated 14.03.2013 passed in LPA No. 318 of 2013 (Lalita Kumari vs. The State of Bihar and others).

3. Learned counsel for the State as well as learned counsel for the private respondent no. 8 appear and oppose the writ petition. It is pointed out that the petitioner has been taking conflicting stands at different stages of the proceedings. In her show cause reply dated 02.08.2011 (Annexure-6) the petitioner took the stand that she arrived at the centre at 8.25 a.m. slightly after the inspection, which was carried out on 12.07.2011 at 8.10 a.m. After the matter was remanded, she filed her show cause reply once again (Annexure-11) for the first time taking the stand that she had fallen ill on the day prior to the inspection. It is further submitted that the medical certificates of Dr. Mahendra Kumar Sharma, (Annexure-B series to the supplementary counter affidavit) also suggest that the petitioner had been advised rest considering her abdominal pain which lasted between 11.07.2011 and 13.07.2011.

4. Having heard the parties and on consideration of the materials on record, this Court finds merit in the writ petition. No doubt there appears to be some ambiguity in the dates mentioned in



the medical certificates with regard to the duration when the petitioner was suffering from abdominal pain. However, the fact of the matter is that the claim of the petitioner of having been absent from the Anganwari Centre only on one day has not been disputed by the respondents, regardless of the number of days she may have suffered abdominal pain.

5. A Division of this Court in LPA No. 318 of 2013 (*Lalita Kumari vs. The State of Bihar & others*) (*supra*) in dealing with a matter of similar nature where non-acceptance of defence of illness to explain the absence of one day resulting in termination of the appellant, observed as follows:-

“Learned counsel for the appellant submits that the removal was occasioned pursuant to an inspection done by a State Level Inspection Team and her defence of illness explaining absence of one day only has not been considered and rejected summarily as not satisfactory only. The aspect of termination ordered by the District Programme Officer originating in an application by the State Level Inspection Team has been considered in detail by one of us (Navin Sinha, J.) reported in 2013(1) PLJR 901 (Manjula Kumari Vs. State of Bihar). The Appeal has to be allowed in similar terms.”

6. Having regard to the nature of the order passed in LPA No. 318 of 2013 (*Lalita Kumari vs. The State of Bihar & others*) (*supra*), this



Court is of the view that termination of the petitioner as *Anganbari Sevika* cannot be sustained and the same is set aside. Accordingly, the writ petition stands allowed.

7. It is, however, made clear that the respondents would be at liberty to impose any other punishment commensurate with the misconduct, if so advised, in accordance with law and after grant of opportunity of hearing to the petitioner. It is also made clear that the petitioner shall not be entitled to any honorarium during the period between her removal and reinstatement.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
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